

ASSEMBLY BILL

No. 730

Introduced by Assembly Member De La Torre

February 26, 2009

An act to amend Section 10400 of the Insurance Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 730, as introduced, De La Torre. Health insurance: unlawful rescission of policy: penalties.

Existing law provides for the licensing and regulation of health insurers by the Insurance Commissioner. Existing law prohibits a health insurer from engaging in the practice of postclaims underwriting, which is defined to mean the rescinding, canceling, or limiting of a health insurance policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an insurance application. Existing law provides that any person willfully violating various provisions governing disability insurance policies, including health insurance policies, or orders of the commissioner in that regard, shall forfeit to the state a sum not to exceed \$118 for each violation.

This bill would provide that a health insurer that unlawfully rescinds a health insurance policy shall be liable to the state for a civil penalty to be fixed by the commissioner in an amount not to exceed \$5,000, except that if the insurer knew, or had reason to know, that the act of rescission was unlawful, the civil penalty shall be fixed by the commissioner in an amount not to exceed \$10,000 for each act or violation. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10400 of the Insurance Code is amended
2 to read:
3 10400. (a) Any person willfully violating any provision of
4 this chapter or order of the commissioner made in accordance
5 therewith shall ~~forfeit to the people of this~~ *be liable to the state for*
6 a ~~sum~~ *civil penalty to be fixed by the commissioner in an amount*
7 not to exceed one hundred eighteen dollars (\$118) for each ~~such~~
8 violation, ~~which sum may be recovered by civil action~~. The
9 commissioner may also suspend or revoke the license of an insurer
10 or agent for any ~~such~~ willful violation *in that regard*.
11 (b) *Notwithstanding subdivision (a), a health insurer that*
12 *unlawfully rescinds a health insurance policy shall be liable to*
13 *the state for a civil penalty to be fixed by the commissioner, in an*
14 *amount not to exceed five thousand dollars (\$5,000) for each*
15 *unlawful rescission of a policy, except that if the insurer knew, or*
16 *had reason to know, that the act of rescission was unlawful, the*
17 *civil penalty shall be fixed by the commissioner in an amount not*
18 *to exceed ten thousand dollars (\$10,000) for each act or violation.*